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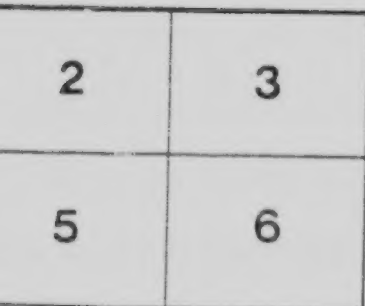
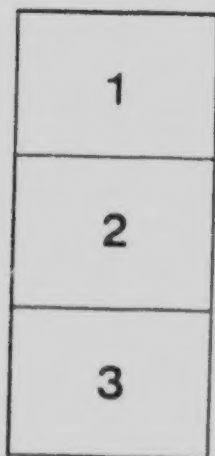
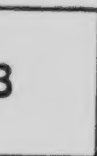
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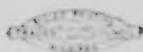
**WORKMEN'S
COMPENSATION ACT
MADE PLAIN**

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**WORKMEN'S
COMPENSATION ACT
MADE PLAIN**

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The Workmen's Compensation Act Made Plain

BY PHILIP C. LOCKE

WHO IS WITHIN THE ACT.

I. Every man and woman, adult or minor, working for an employer under either a written or verbal agreement, where the employer usually, or from time to time, employs five or more workmen, is within the Act, subject to the following restrictions:

THOSE OUTSIDE THE ACT.

(a) A person not doing manual work and receiving more than twelve hundred dollars per year.

(b) A person whose employment is of casual nature, or employed otherwise than for the purpose of the employer's trade or business.

(c) An out worker.

II. A further explanation of the excluded classes might be advisable.

The manual laborer is not excluded by the \$1,200.00 limit—that only applies to brain workers earning more than \$1,200.00 per year.

The casual worker is rather hard to define, and in my opinion will cause some considerable litigation. It is, however, intended to mean men doing odd jobs, such as a man carrying a valise from the station, a

messenger running an errand, and work of a similar nature.

An out worker does not mean a mechanic sent out by his employer, such as a painter, a plumber, a carpenter, etc., but would rather refer to people finishing, say clothes or work of that nature at their own homes.

WHEN COMPENSATION BEGINS.

Compensation does not begin until the workman has been disabled at least two weeks.

PERSONAL NEGLIGENCE OR WILFUL ACT.

By the Employer—

(a) Where there is personal negligence or wilful act of the employer, or of some person for whom the employer is liable, such as foremen, the workman has a right to claim compensation under this Act, or at Common Law, or under the present Workmen's Compensation Act. The workman may select which of the remedies he will take, whether under this Act, the present Workman's Compensation Act, or at Common Law. If he should take proceedings independent of this Act, he loses right to compensation under this Act, even should he lose at Common Law, and vice versa.

By the Employee—

(a) If the injury only partially disables the workman and is attributable to his serious or wilful misconduct, no damages.

(b) In case of total or permanent disablement, serious or wilful misconduct by the workman is not a bar to an action.

(c) If the workman receives the injury while trying to save a fellow workman from

injury, he does not thereby lose his right to compensation.

(d) Drunkenness at the time of the accident is a bar to compensation.

HOW TO CLAIM COMPENSATION.

Notice of the accident must be given the employer within fourteen days from the happening of the accident unless the parties entitled to compensation are temporarily out of the Province, when they have twenty-eight days in which to give notice; and unless notice of claim is given within three months and proceedings taken within six months, the party shall have no claim.

However, defect or inaccuracy in any notice shall not be a bar to the action unless it can be shown that the employer was prejudiced by the notice, nor shall the fact that the notices were not given in time owing to a mistake or the party entitled to give notice being absent from the Province or some other reasonable cause, be a bar to action. However, proceedings must be taken within six months from date of the accident.

The following may serve as a form of notice:

(1) NOTICE OF INJURY.

"To Messrs. Smith-Brown & Co.,
Corner Portage & Main St.,
Winnipeg, Manitoba.

I beg to give you notice that my father, William Robinson, of 316 Rosebery street, was injured in the course of his employment with you, by being crushed by a falling beam on the 20th day of June, 1911.

(Signed) John Robinson."

Dated July 1st, 1911.

(2) NOTICE OF CLAIM.

To Smith, Brown & Co., corner Portage and Main street, Winnipeg, Manitoba:

I beg to give you notice that my father, William Robinson, of 316 Rosebery street, Winnipeg, died as a result of injuries received by him June 20th, while in your employ. I claim on behalf of my mother, Isabel Robinson, the sum of \$1,500.00.

(Signed) John Robinson,

Dated July 20th, 1911."

A point that should be remembered is that in some cases the injury is not apparent for some time after the accident. A number of cases have been before the courts where the shock of a fall or explosion or otherwise has caused injuries in the way of paralysis, deafness or loss of sight or similar injuries, which were not noticeable for some times two months after the date of the accident, so that it is always well where a workman is in an accident, although he may not appear to have received any injury, to give notice to his employer. This notice may be given by any friend or agent of the injured person. I would recommend that each local union authorize its secretary to act as agent for the individual members of the unions to look after their interests and to give the necessary notices of accidents and of claim.

THE AMOUNT OF COMPENSATION.

The greatest amount of compensation which may be claimed under this Act is the sum of \$1,500.00, irrespective of the amount of the earning capacity. Compensation whether paid by way of weekly allowances, as I shall hereafter set out, or by way of a lump sum, shall be paid only to a dependent residing in the Province, and where a dependent leaves the Province, he or she loses all right to compensation.

WHO ARE DEPENDENTS?

Dependents are defined by the Act as being members of the workman's family who are wholly or in part dependent on his earnings, at the time of his death, or who have been but for the injury, dependent on him. Such as wife, or husband, father, mother, grandfather, grandmother, step-father, step-mother, son, daughter, grandson, granddaughter, step-son, step-daughter, brother, sister, half-brother, half-sister, adopted child, foster parent or illegitimate child.

AMOUNT DEPENDENTS ARE ENTITLED TO.

In Case of Death—

(1) Where the dependents are wholly dependent such as a wife, minor children, aged parents and such like, the sum of \$1,500.00.

(2) Where the dependent is only partly dependent on the earnings of the dead workman, such amount as shall be agreed upon by parties, not exceeding \$1,500.00, or whatever amount can be settled by arbitration, but not more than \$1,500.

(3) Where there are no dependents, the reasonable cost of medical attendance and burial expenses, not exceeding one hundred dollars.

(4) Where death results from injuries, the compensation shall be paid into court and paid out as the court directs.

In Case of Partial or Total Disablement—

Fifty per cent. of the average earnings not exceeding ten dollars per week, for a journeyman or an adult workman, or six dollars per week for an apprentice.

If, however, the employer pays any payments, allowances or benefit during the time

the workman is laid up, apart from this amount, the amount paid shall be taken into consideration on the payment of the compensation.

Provided, however, that when the man injured is not a journeyman working at his own trade, he shall only be entitled to twenty-five per cent. of the amount by which his earning capacity is reduced for the first month, forty per cent. for the second month, and fifty per cent. afterwards.

CONTRACTING OUT OF ACT.

(a) The employer and workman may enter into a scheme of insurance which provides as good benefits as the Act to the injured workman, and agree that the provisions of the Act shall not apply. This arrangement must be approved of by the Attorney-General of the Province and must continue for at least five years. No such scheme can contain any provision making it compulsory on the workman to join it as a condition of hiring or from allowing him to drop out at any time.

(b) If complaint is made to the Attorney-General that the scheme is not fair, or that it is not being fairly worked, the Attorney-General shall look into it and revoke the certificate for the scheme.

SUB-CONTRACTORS.

Where a man in the employ of a sub-contractor is injured, and is entitled to compensation under this Act, he may claim against the principal employer for whom the sub-contractor was working and recover from the principal employer who shall be entitled to claim same against the contractor. But this clause does not prevent the employee from recovering compensation

directly against the contractor instead of the principal.

This clause only applies when the work is under the control of the principal employer.

INSURANCE.

Where an employer carries liability insurance and assigns or makes an agreement with his creditors or is wound up, then the workman has a direct claim against the insurance in the place of the employer. In case of a person or company assigning or being wound up as being bankrupt, then the injured workman who was entitled to receive compensation before such bankruptcy, is a preferred creditor to the extent of five hundred dollars over ordinary creditors except where there is insurance as mentioned in the last sentence.

LIEN ON INSURANCE.

Where an employer carries liability insurance, a workman who is entitled to compensation, may, by serving notice of his claim, place a lien on the insurance and may recover his compensation direct from the insurance company.

TO WHOM DOES THE ACT NOT APPLY?

- (1) Farm laborers;
- (2) Domestic servants.

WHEN DOES THE ACT COME INTO FORCE?

January first, 1911, but does not apply to accidents happening before that date.

EXAMINATION BY DOCTOR.

Where a workman has given notice of an accident he must, if the employer requires

It, submit himself for examination by a doctor (who shall be paid by the employer) and if he refuse to do so he loses his right to claim compensation, until he consents to such examination. If he is receiving compensation, the employer can have him examined once every three months by a doctor to be paid by the employer, and if he refuses to do so, he loses his right to compensation until he does.

REDEMPTION OF LIABILITY.

Where the employer has paid compensation for six months in weekly payments, he may discharge his liability entirely by paying up the difference between what he has paid and \$1,500.00.

COMPENSATION NOT CAPABLE OF GARNISHMENT.

Compensation payable under this Act cannot be attached or garnished in any way.

ARBITRATION.

Matters in dispute shall be settled by a committee representing employer and workman, unless either party give notice in writing, when the same shall be settled by a single arbitrator to be appointed by the parties, or, if they cannot agree, by a County Court Judge. The costs of such proceedings shall be fixed by the committee, arbitrator or judge, but shall not exceed twenty-five dollars. Any award may be registered in court and enforced like an ordinary judgment.

POINTS TO REMEMBER.

1. The Act comes into force on January 1st, 1911.
2. The limit of compensation is \$1,500.00.

3. Notice of accident must be sent within 14 days.
4. Notice of claim must be sent in within three months.
5. Proceedings must be started in six months.
6. Compensation does not commence till after second week.
7. Compensation is not more than half wages, not to exceed ten dollars (\$10) per week.
8. The workman may contract out of Act.
9. If the employer becomes a bankrupt the workman has a preferred claim of \$500.
10. The workman has a lien on any liability insurance carried by the employer.
11. Disputes under this Act may be settled (1) by a committee; (2) a single arbitrator; or (3) a county court judge.
12. A solicitor can only claim the costs allowed by the court.

THE COMMON LAW.

The great difference between the liability at common law and under the present Workmen's Compensation Act or under this Act, is that which is known as the defence of common employment. To illustrate: John Brown and Tom Smith are fellow workmen in a factory. Through the negligence of Smith, Brown is injured, perhaps killed. There is no liability at common law because the answer of the employer would be that Brown was hurt owing to the negligence of his fellow workman. A good example of where there would be liability at common law is the case of a man being run over by an automobile or being injured while a passenger in a train.

A PIECE OF GOOD ADVICE.

It was through the efforts of the Winnipeg and Brandon Trades and Labor Councils, and the various trade unions in Winnipeg, that this Act was passed. A great deal of time was spent by the Trades and Labor Council and also by individual members of the unions throughout the city, and any benefit arising to the workmen of Manitoba has been owing to their efforts. Arrangements are being made whereby the secretary of each trade union will look after all the necessary details in connection with collecting claims for damages of members of his union.

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